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Karl D. Gleaves, Esq.
Assistant General Counsel for Ocean Services
National Oceanic and Atmospheric Administration
1305 East West Highway Room 6111 SSMC4
Silver Spring MD 20910
November 13, 2002

RE: Federal Consistency Appeal of the Millennium Pipeline Co

Dear Mr. Gleaves:

The attached comments refer to Section III, Element 2, subsection 4 and Element 3, subsection 10 of the October 23, 2002 Amicus Brief filed by Kirkland & Ellis on behalf of the village of Croton-on-Hudson.

The directors and members of the Arboretum thank NOAA for the opportunity to comment on the appeal of the pipeline project. Any comments or questions with respect to our comments should be addressed to the undersigned.

Sincerely yours,

Karen Jescavage-Bernard
President

att

Comments of Karen Jescavage-Bernard, President of the Jane E. Lytle Memorial Arboretum in the Village of Croton-on-Hudson, New York, on the Millennium Pipeline Project: November 13, 2002.

The Arboretum is a nature preserve in the village of Croton-on-Hudson, NY. As such, it is a coastal resource in a coastal zone approved by the US Department of Commerce and designated for special protections under enforceable policies of federal, state and local law, specifically the federal Coastal Zone Management Act and Croton's Local Waterfront Revitalization Program.

Our organization wants to go on record as strongly supporting the Croton/Briarcliff Amicus Brief protecting Coastal Zone areas, including the Arboretum. We note two particular points in the Amicus:

- 1) In opposition to Millennium's contention that the Arboretum should not be included in the Coastal Zone, the brief builds an irrefutable case for inclusion.
- 2) In opposition to Millennium's contention that the pipeline cannot and will not have significant adverse impacts, the brief enumerates many of the drastic and irreversible impacts the proposed route will have on the Arboretum.

The unusual quality of the Arboretum's wetlands have been documented by four separate consultants. In recognition of its uniqueness as an environmental and educational resource,

We also want to add to the record two impacts not listed in the Amicus Brief:

- 1) Millennium's application cites no plans for a pre-construction survey of the intermittent and perennial streams, wetlands, and forested uplands through which the pipeline will run. Absent baseline data, these resources will be destroyed before they are even mapped.
- 2) Millennium's post-construction revegetation plan is a conscious failure as mitigation. The revegetation plan proposes to replant the forested wetland clearcut during pipeline construction with tree species that attain 100 feet in height. But the monitoring plan will check the pipeline by plane, which requires that the ground be mowed to make the route visible from the air. And the maintenance plan requires that vegetation in the right-of-way be cut to a height of 15 feet or lower to enable vehicular access.

Plans for monitoring and maintenance thus make reforestation impossible. Common sense dictates that 15 foot tall plants do not make, and will never make, a forest. Neither can trees programmed by 30,000 years of evolution to reach 100 feet be expected to survive being treated like bushes.

The Amicus Brief states that the proposed route is unacceptable and proposes alternatives that would avoid or diminish impacts on the Arboretum. We support those alternative routes that reroute the pipeline out of or away from the Arboretum. But we have serious concerns about two of the upland alternative routes.

1) Drilling underneath the Arboretum does not address the permanent removal of wetland forest for pipeline monitoring and maintenance. In addition, the staging area will require clearcutting a magnificent stand of mature beech trees that separates and shields the Arboretum's central wetland from invasive vegetation infesting Con Edison's right of way. It should also be pointed out that this beech wood lies within Croton's protected coastal zone.

2) Rerouting the pipeline through Con Edison's right of way will have many of the same irreparable impacts on the Arboretum's wetlands, streams, and woodlands unless the pipeline and its right of way are sufficiently distant from the Arboretum/Con Edison property line.

The proposed route is the most costly to the protected human communities and natural ecosystems in the pipeline's path. These costs include:

- The loss of 25% of the Arboretum's wetlands and woodlands;
- The loss of ecosystem services protecting air and water quality;
- The loss of wildlife and wildlife habitat;
- The loss of educational and recreational resources.

Regarding this last, we note with particular anguish the loss of the amenities and opportunities created at the Arboretum for our handicapped citizens.

All these losses can be avoided by rerouting the pipeline out of, and away from, the Arboretum. To that end, we look to our government to uphold the law and the faith we have placed in it. We urge the Secretary to uphold the decision by the NYSDOS against the pipeline.

Thank you for your consideration of this matter.